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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,766	12/04/2003	Michael Borbe	041176/268610	7596
826	7590	06/07/2004	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			WHITE, RODNEY BARNETT	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/727,766

Applicant(s)

BORBE ET AL.

Examiner

Rodney B. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 May 0304.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,4,5,7,9 and 16 is/are rejected.  
7) ☒ Claim(s) 2,3,6,8,10-15 and 17 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/4/2003.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of Claims 1-16 in the Paper dated 5/3/2004 is acknowledged.

### *Claim Objections*

Claim 6 is objected to because of the following informalities: In claim 6, line 8, the word - - of - - should be inserted "teeth". Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 , 4, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Borlinghaus et al (U.S. Patent No. 5,087,009).

Borlinghaus et al teach a longitudinal adjuster 10 for a vehicle seat, the longitudinal adjuster comprising a first seat rail 16, a second seat rail 18 that can be slid lengthwise relative to the first seat rail, and at least one locking element 34 movably borne in the second seat rail, with the locking element reaching outward at least in predetermined areas through openings of the second seat rail and cooperating with notches of the first seat rail to lock the longitudinal adjuster, wherein at least one marginal layer of the locking element is softer than at least one marginal area selected from the group consisting of a marginal area of the second seat rail, wherein the marginal area of the second seat rail borders the openings, and a marginal area of the first seat rail, wherein the marginal area of the first seat rail borders the notches, wherein the locking element comprises a plate having pairs of teeth 40 respectively reaching through the openings of the second seat rail for interacting with the notches of the first seat rail (See column 3, lines 67-68 and column 4, lines 1-27).

Claims 1 , 4, 7, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Rohee (U.S. Patent No. 5,931,436).

Rohee teaches a longitudinal adjuster 2 for a vehicle seat, the longitudinal adjuster comprising a first seat rail 4, a second seat rail 3 that can be slid lengthwise relative to the first seat rail, and at least one locking element 15 movably borne in the second seat rail, with the locking element reaching outward at least in predetermined areas through openings of the second seat rail and cooperating with notches 20 of the

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first seat rail to lock the longitudinal adjuster, wherein at least one marginal layer of the locking element is softer than at least one marginal area selected from the group consisting of a marginal area of the second seat rail, wherein the marginal area of the second seat rail borders the openings, and a marginal area of the first seat rail, wherein the marginal area of the first seat rail borders the notches, wherein the locking element comprises a plate having pairs of teeth 28 respectively reaching through the openings of the second seat rail for interacting with the notches of the first seat rail (See column 4, lines 13-33 where it states that the "blades....bend elastically" which implies the locking element is made of a softer material), ), and a guide surface for guiding the locking element into the at least one opening.

Claims 1 , 4, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Levillian et al (U.S. Patent No. 6,079,688).

Levillian et al teach a longitudinal adjuster 1 for a vehicle seat, the longitudinal adjuster comprising a first seat rail 5, a second seat rail 3 that can be slid lengthwise relative to the first seat rail, and at least one locking element 10,15 movably borne in the second seat rail, with the locking element reaching outward at least in predetermined areas through openings of the second seat rail and cooperating with notches 57 of the first seat rail to lock the longitudinal adjuster, wherein at least one marginal layer of the locking element is softer than at least one marginal area selected from the group consisting of a marginal area of the second seat rail, wherein the marginal area of the second seat rail borders the openings, and a marginal area of the first seat rail,

wherein the marginal area of the first seat rail borders the notches, wherein the locking element comprises a plate having pairs of teeth 16 respectively reaching through the openings of the second seat rail for interacting with the notches of the first seat rail (See column 3, lines 67-68 and column 4, lines 1-27).

Claims 1 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Becker et al (U.S. Patent Application Publication No. 2003/0150971).

Becker et al teach a longitudinal adjuster for a vehicle seat, the longitudinal adjuster comprising a first seat rail 22, a second seat rail 20 that can be slid lengthwise relative to the first seat rail, and at least one locking element 40 movably borne in the second seat rail, with the locking element reaching outward at least in predetermined areas through openings of the second seat rail and cooperating with notches 30 of the first seat rail to lock the longitudinal adjuster, wherein at least one marginal layer of the locking element is softer than at least one marginal area selected from the group consisting of a marginal area of the second seat rail, wherein the marginal area of the second seat rail borders the openings, and a marginal area of the first seat rail, wherein the marginal area of the first seat rail borders the notches.

Claims 1, 4-5, 7, 9, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 84 22 275.1.

DE 84 22 275.1 teaches a longitudinal adjuster for a vehicle seat, the longitudinal adjuster comprising a first seat rail 13, a second seat rail 12 that can be slid lengthwise relative to the first seat rail, and at least one locking element 34 movably

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borne in the second seat rail, with the locking element reaching outward at least in predetermined areas through openings of the second seat rail and cooperating with notches of the first seat rail to lock the longitudinal adjuster, wherein at least one marginal layer of the locking element is softer than at least one marginal area selected from the group consisting of a marginal area of the second seat rail, wherein the marginal area of the second seat rail borders the openings, and a marginal area of the first seat rail, wherein the marginal area of the first seat rail borders the notches, wherein the locking element comprises a plate having pairs of teeth 57 respectively reaching through the openings of the second seat rail for interacting with the notches of the first seat rail (See English translation of claim 1 provided by applicant), and a guide surface for guiding the locking element into the at least one opening.

Claims 1, 4-5, 7, 9, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Myers (U.S. Patent No. 5,234,189).

Myers teaches a longitudinal adjuster 10 for a vehicle seat, the longitudinal adjuster comprising a first seat rail 12, 14, a second seat rail 18 that can be slid lengthwise relative to the first seat rail, and at least one locking element 34 movably borne in the second seat rail, with the locking element reaching outward at least in predetermined areas through openings of the second seat rail and cooperating with notches of the first seat rail to lock the longitudinal adjuster, wherein at least one marginal layer of the locking element is softer than at least one marginal area selected from the group consisting of a marginal area of the second seat rail, wherein the

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marginal area of the second seat rail borders the openings, and a marginal area of the first seat rail, wherein the marginal area of the first seat rail borders the notches, wherein the locking element comprises a plate having pairs of teeth respectively reaching through the openings of the second seat rail for interacting with the notches of the first seat rail (See column 3, lines 59-60 where it states that the teeth and/or the apertures are capable of plastic deformation which implies that that one is softer than the other), wherein at least some of the teeth arranged in a longitudinal series having outer teeth which are respectively at ends of the series and inner teeth which are positioned between the outer teeth, and at least one tooth of the outer teeth differs in width from the inner teeth (See Figures 4-7), and a guide surface for guiding the locking element into the at least one opening.

Claims 1, 4, 7, 9, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Moradell et al (U.S. Patent No. 6,113,051).

Moradell et al teaches a longitudinal adjuster for a vehicle seat, the longitudinal adjuster comprising a first seat rail 1, a second seat rail 2 that can be slid lengthwise relative to the first seat rail, and at least one locking element 31 movably borne in the second seat rail, with the locking element reaching outward at least in predetermined areas through openings of the second seat rail and cooperating with notches of the first seat rail to lock the longitudinal adjuster, wherein at least one marginal layer of the locking element is softer than at least one marginal area selected from the group consisting of a marginal area of the second seat rail, wherein the marginal area of the second seat rail borders the openings, and a marginal area of the first seat rail,



wherein the marginal area of the first seat rail borders the notches, wherein the locking element comprises a plate having pairs of teeth respectively reaching through the openings of the second seat rail for interacting with the notches of the first seat rail (See column 3, lines 59-60) where it states that the teeth and/or the apertures are capable of plastic deformation which implies that that one is softer than the other), and a guide surface for guiding the locking element into the at least one opening.

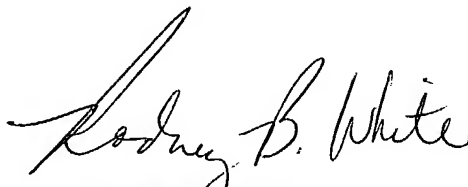
Claims 2-3, 6, 8, 10-15, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-2276.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,  
Patent Examiner  
Art Unit 3636  
May 28, 2004



Rodney B. White  
Patent Examiner